

SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SECOND GENERAL ASSEMBLY

101ST LEGISLATIVE DAY

WEDNESDAY, MAY 22, 2002

3:15 O'CLOCK P.M.

No. 101
[May 22, 2002]

The Senate met pursuant to adjournment.
 Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.
 Prayer by Senator Adeline J. Geo-Karis, Zion, Illinois.
 Senator Radogno led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 21, 2002, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

LEGISLATIVE MEASURES FILED

The following floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 2 to House Bill 5240
 Senate Amendment No. 1 to House Bill 5450

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in H.A.'s 1 and 2 to Senate Bill 2024

EXCUSED FROM ATTENDANCE

On motion of Senator Demuzio, Senator Clayborne was excused from attendance today, and Thursday, May 23, 2002, due to illness.

REPORTS FROM STANDING COMMITTEES

Senator Sieben, Chairperson of the Committee on Agriculture and Conservation, to which was referred Senate Resolution No. 429 reported the same back with the recommendation that the resolution be adopted. Under the rules, Senate Resolution 429 was placed on the Secretary's Desk.

Senator Cronin, Chairperson of the Committee on Education to which was referred the following Senate floor amendment, reported that the Committee recommends that it be approved for consideration:

Amendment No. 2 to Senate Joint Resolution No. 75

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Cronin, Chairperson of the Committee on Education, to which was referred the Motion to concur with House to the following Senate Bill, reported that the Committee recommends that it be approved for consideration:

Motion to concur House Amendment 1 to Senate Bill 1545

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Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Klemm, Chairperson of the Committee on Executive, to which was referred Senate Resolution No. 431 reported the same back with the recommendation that the resolution be adopted.

Under the rules, Senate Resolution 431 was placed on the Secretary's Desk.

Senator T. Walsh, Chairperson of the Committee on Insurance and Pensions to which was referred the following Senate floor amendment, reported that the Committee recommends that it be approved for consideration:

Amendment No. 1 to House Bill 2671

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Burzynski, Chairperson of the Committee on Licensed Activities, to which was referred the Motion to concur with House to the following Senate Bill, reported that the Committee recommends that it be approved for consideration:

Motion to concur House Amendment 1 to Senate Bill 1690

Under the rules, the foregoing motion is eligible for consideration by the Senate.

INTRODUCTION OF A BILL

SENATE BILL NO. 2420. Introduced by Senator Myers, a bill for AN ACT concerning agriculture.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 5965

A bill for AN ACT concerning health insurance.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 5965.

Senate Amendment No. 2 to HOUSE BILL NO. 5965.

Non-concurred in by the House, May 21, 2002.

ANTHONY D. ROSSI, Clerk of the House

Under the rules, the foregoing House Bill No. 5965, with Senate Amendments numbered 1 and 2, was referred to the Secretary's Desk.

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A message from the House by
 Mr. Rossi, Clerk:
 Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1588
 A bill for AN ACT in relation to vehicles.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 3 to SENATE BILL NO. 1588
 House Amendment No. 5 to SENATE BILL NO. 1588

Passed the House, as amended, May 22, 2002.
 ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 3 TO SENATE BILL 1588

AMENDMENT NO. 3. Amend Senate Bill 1588 on page 1, by replacing lines 4 through 8 with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 3-601 and adding Section 3-654 as follows:

(625 ILCS 5/3-601) (from Ch. 95 1/2, par. 3-601)

Sec. 3-601. Operation of vehicles under special plates.

(a) A manufacturer owning any unregistered vehicle of a type otherwise required to be registered under this Act may operate or move such upon the highways without registering each such vehicle upon condition that any such vehicle display thereon, a special plate or plates issued to such owner as provided in this Article.

(b) A dealer owning any unregistered vehicle of a type otherwise required to be registered under this Act and held by him for sale or resale, may operate or move such upon the highways without registering each such vehicle upon condition that any such vehicle display thereon a special plate or plates issued to such owner as provided in this Article.

(c) A transporter may operate or move any vehicle not owned by him upon the highways by the driveway or towaway methods solely for the purpose of delivery upon likewise displaying thereon like plates issued to him as provided in this Article.

(d) A boat dealer owning any boat trailer of a type otherwise required to be registered under this Act may operate or move such upon the highways and haul a boat customarily sold with such boat trailer, without registering each such boat trailer upon condition that any such boat trailer display thereon, in the manner prescribed in Section 3-413, a special plate or plates issued to such owner as provided in this Article.

(e) Any person owning unregistered vehicles of a type required to be registered and which are exclusively operated off the highways and upon private property, may move such vehicles from one plant location to another upon the highways without registering each such vehicle upon conditions that any such vehicle display thereon a special plate or plates issued to such persons as provided in this Article. Such vehicles must be unladen and may not be operated upon any highways with such special plates except for the interplant movement.

(f) Any person owning a vehicle of a type required to be registered which when purchased is not yet equipped for work or service, may move such vehicle from the point of original manufacture or sale to a body shop or other place where the vehicle is to be

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equipped for work or service and from such point to the owner's place of business without first registering each such vehicle upon condition that any such vehicle display thereon a special plate or plates issued to such person as provided in this Article. Upon completion of such movement, any such vehicle subject to registration must be properly registered.

(g) Special plates issued under this Article must be displayed in the manner provided for in Section 3-413.

(h) Any such vehicle bearing such special plate or plates may be operated without registration for any purpose, except that no such special plate or plates shall be used on any vehicle which is rented by the manufacturer or dealer to another person or which is used to transport passengers or property for hire, nor, except as provided in paragraph (i) of this Section, shall any such special plate or plates be used on a second division vehicle which is carrying cargo or merchandise except in demonstrating such second division vehicle for the purposes of sale, or for the purpose of testing engine and driveline components, or when a transporter, trailer manufacturer, or trailer dealer is delivering new trailers to a dealer or customer and the trailers are stacked for convenience of transportation only.

(i) The provisions of this Article authorizing special plates shall not apply to work or service vehicles owned by a manufacturer, transporter or dealer except a truck up to 8,000 pounds gross weight owned by a dealer and used for hauling parts incidental to the operation of the dealer's business.

(j) The Secretary of State may limit the number of special plates issued to any applicant.

(Source: P.A. 78-753; 78-1297.)

(625 ILCS 5/3-654 new)

Sec. 3-654. Emergency Medical Technicians and Paramedics license plates."

AMENDMENT NO. 5 TO SENATE BILL 1588

AMENDMENT NO. 5. Amend Senate Bill 1588 on page 1, by replacing lines 4 through 8 with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 3-600 and adding Section 3-654 as follows:

(625 ILCS 5/3-600) (from Ch. 95 1/2, par. 3-600)

Sec. 3-600. Requirements for issuance of special plates.

(a) The Secretary of State shall not issue a series of special plates that the General Assembly has authorized for issuance before the effective date of this amendatory Act of the 92nd General Assembly unless applications, as prescribed by the Secretary, have been received for 10,000 plates of that series; except that the Secretary of State may prescribe some other required number of applications if that number is sufficient to pay for the total cost of designing, manufacturing and issuing the special license plate.

(a-1) The Secretary of State may issue a series of special plates that the General Assembly has authorized for issuance on or after the effective date of this amendatory Act of the 92nd General Assembly only if the organization seeking issuance of the plates either has deposited with the Secretary in cash an amount the Secretary has determined to be sufficient to cover the cost of designing, manufacturing, and issuing 1,500 sets of the special plates or has provided the Secretary with a performance bond guaranteeing payment of the required amount if necessary. If no formal organization exists at the time that issuance of the special plates is proposed, the individual or individuals seeking issuance of the plates must form an organization to deposit the required moneys or post the required bond.

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The amount deposited with the Secretary, or any proceeds from redemption of the performance bond, shall be deposited into the Secretary of State Special License Plate Fund.

(a-2) Within 3 years after the date on which issuance of special plates under subsection (a-1) is first authorized, the Secretary of State must receive applications for at least 1,500 sets of the special plates. If the required number of applications is received within the 3-year period, the Secretary shall return the amount of any cash deposit and shall retain any interest realized on the principal. If the required number of applications is not received within the 3-year period, the Secretary shall recall the special plates.

This subsection (a-2) does not apply to plates for which applicants must meet specified eligibility requirements.

(a-3) Within 3 years after the effective date of this amendatory Act of the 92nd General Assembly, the Secretary of State must have received applications for a total of at least 1,500 sets of every series of special plates that were issued under subsection (a), except those special plates for which the applicant must meet specified eligibility requirements. If the required number of applications has not been received within the 3-year period, the Secretary shall recall the special plates.

(b) The Secretary of State, upon issuing a new series of special license plates, shall notify all law enforcement officials of the design, color and other special features of the special license plate series.

(c) This Section shall not apply to special license plate categories in existence on the effective date of this amendatory Act of 1990, or to the Secretary of State's discretion as established in Section 3-611.

(Source: P.A. 86-1207.)

(625 ILCS 5/3-654 new)

Sec. 3-654. Emergency Medical Technicians and Paramedics license plates."; and

on page 2, below line 7, by inserting the following:

"Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing Senate Bill No. 1588, with House Amendments numbered 3 and 5, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1880

A bill for AN ACT in relation to vehicles.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1880

Passed the House, as amended, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1880

AMENDMENT NO. 1. Amend Senate Bill 1880 on page 1, by replacing

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lines 4 and 5 with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 12-205.1 and 12-215 as follows:

(625 ILCS 5/12-205.1) (from Ch. 95 1/2, par. 12-205.1)

Sec. 12-205.1. Implements of husbandry or slow-moving vehicles-Display of amber signal lamp. Every animal drawn vehicle, farm tractor, implement of husbandry and special mobile equipment, except when used for road construction or maintenance within the limits of a construction or maintenance project where traffic control devices are used in compliance with the applicable provisions of the manual and specifications adopted under Section 11-301 of the Illinois Vehicle Code, when operated on a highway during a time when lighted lamps are required by Section 12-201 of this Chapter, shall display to the rear at least one flashing amber signal lamp mounted as high as practicable and of sufficient intensity to be visible for a distance of at least 500 feet in normal sunlight; provided, that only the rearmost vehicle of a combination of vehicles coupled together need display such lamp. The flashing amber signal lamp may be operated lighted during daylight hours when other lamps are not required to be lighted when vehicles authorized in this Section are operated on a highway. Implements of husbandry manufactured on or after January 1, 2003 and operated on public roads between sunset and sunrise shall display markings and lighting that meet or exceed the design, performance, and mounting specifications adopted by the American Society of Agricultural Engineers and published by that body as ASAE S279.11 APR01 S-279-10-APR98.

(Source: P.A. 91-505, eff. 1-1-00.)"; and

on page 6, below line 5, by inserting the following:

"Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing Senate Bill No. 1880, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1907

A bill for AN ACT in relation to vehicles.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1907

House Amendment No. 2 to SENATE BILL NO. 1907

Passed the House, as amended, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1907

AMENDMENT NO. 1. Amend Senate Bill 1907 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Section 13B-50 as follows:

(625 ILCS 5/13B-50)

Sec. 13B-50. Costs.

(a) Except as otherwise provided in subsection (e) of Section

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13B-15, no fee may shall be charged to motor vehicle owners for obtaining inspections required under this Chapter. The Vehicle Inspection Fund, which is a fund created in the State treasury for the purpose of receiving moneys from the Motor Fuel Tax Fund and other sources, shall be used, subject to appropriation, for the payment of the costs of the program, including reimbursement of those agencies of the State that incur expenses in the administration or enforcement of the program. The Vehicle Inspection Fund shall continue in existence notwithstanding the repeal of Chapter 13A. Any money in the Vehicle Inspection Fund on January 1, 1995, shall be used for the purposes set forth in this Chapter.

(b) The Agency may acquire, own, maintain, operate, sell, lease and otherwise transfer real and personal property and interests in real and personal property for the purpose of creating or operating inspection stations and for any other purpose relating to the administration of this Chapter, and may use money from the Vehicle Inspection Fund for these purposes.
(Source: P.A. 88-533.)".

AMENDMENT NO. 2 TO SENATE BILL 1907

AMENDMENT NO. 2. Amend Senate Bill 1907, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 13B-5 and 13B-40 as follows:

(625 ILCS 5/13B-5)

Sec. 13B-5. Definitions. For the purposes of this Chapter:

"Affected counties" means Cook County; DuPage County; Lake County; those parts of Kane County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 60109, 60119, 60135, 60140, 60142, 60144, 60147, 60151, 60152, 60178, 60182, 60511, 60520, 60545, and 60554; those parts of Kendall County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 60447, 60512, 60536, 60537, 60541, those parts of 60543 that are not within the census defined urbanized area, 60545, and 60560; those parts of McHenry County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 60001, 60033, 60034, 60071, 60072, 60097, 60098, 60142, 60152, and 60180; those parts of Will County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 60401, 60407, 60408, 60410, 60416, 60418, 60421, 60442, 60447, 60468, 60481, 60935 and 60950; those parts of Madison County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 62001, 62012, 62021, 62026, 62046, 62058, 62061, 62067, 62074, 62088, 62097, 62249, 62275, and 62281; those parts of Monroe County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 62244, 62248, 62256, 62261, 62276, 62278, 62279, 62295, and 62298; and those parts of St. Clair County that are not included within any of the following ZIP code areas, as designated by the U.S. Postal Service on the effective date of this amendatory Act of 1994: 62224, 62243, 62248, 62254, 62255, 62257, 62258, 62260, 62264, 62265, 62269, 62278, 62282, 62285, 62289, and 62298.

"Board" means the Illinois Pollution Control Board.

"Claim evaluation center" means an automotive diagnostic facility

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that meets the standards prescribed by the Agency for performing examinations of vehicle emissions inspection damage claims.

"Contractor" means the vehicle emissions test contractor for Official Inspection Stations described in Section 13B-45.

"Inspection area" means Cook County, DuPage County, Lake County and those portions of Kane, Kendall, Madison, McHenry, Monroe, Will, and St. Clair Counties included in the definition of "affected counties".

"Owner" means the registered owner of the vehicle, as indicated on the vehicle's registration. In the case of an unregistered vehicle, "owner" has the meaning set forth in Section 1-155 of this Code.

"Program" means the vehicle emission inspection program established under this Chapter.

"Resident" includes natural persons, foreign and domestic corporations, partnerships, associations, and all other commercial and governmental entities. For the purpose of determining residence, the owner of a vehicle shall be presumed to reside at the address indicated on the vehicle's registration. A governmental entity, including the federal government and its agencies, and any unit of local government or school district, any part of which is located within an affected county, shall be deemed a resident of an affected county for the purpose of any vehicle that is owned by the governmental entity and regularly operated in an affected county.

"Registration" of a vehicle means its registration under Article IV of Chapter 3 of this Code.

(Source: P.A. 90-89, eff. 1-1-98.)

(625 ILCS 5/13B-40)

Sec. 13B-40. Grievance and damage claim requirements and procedures.

(a) Emissions inspection and waiver denial grievance procedures procedure. Any person aggrieved by a decision regarding the failure of an emissions test or the denial of a waiver may file a petition with the Agency within 30 days after the decision was made, and the Agency shall thereupon investigate the matter. Within 45 days after its receipt of the petition, the Agency shall submit to the petitioner and any affected inspector or station its written determination of the correctness or incorrectness of the decision complained of. The written determination shall include a statement of the facts relied upon and the legal and technical issues decided by the Agency in making its determination, and may also include an order directing the inspector (i) to issue an emission inspection certificate for the vehicle effective on such date as the Agency may specify, (ii) to reinspect the vehicle, (iii) to apply the standards that the Agency has determined to be applicable, or (iv) to take any other action that the Agency deems to be appropriate. In conducting the investigation, the Agency may require the petitioner to present the vehicle for inspection by the Agency or its designated agent. The written determination of the Agency shall be subject to review in circuit court in accordance with the provisions of the Administrative Review Law, except that no challenge to the validity of a rule adopted by the Board under subsection (a) of Section 13B-20 shall be heard by the circuit court if the challenge could have been raised in a timely petition for review under Section 13B-20.

(b) Vehicle damage claim requirements and procedures.

(1) The contractor shall make vehicle damage claim forms authorized by the Agency available for vehicle owners in sufficient quantities at all official inspection stations.

(2) Notice of the vehicle damage claim procedures and the vehicle owner's rights in relation to a vehicle damage claim

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shall be conspicuously posted at all official inspection stations.

(3) If a vehicle owner believes that his or her vehicle was damaged by an act or omission of the contractor during or as a result of an emissions inspection performed on or after August 1, 2002, the owner may initiate resolution of the damage claim under this subsection by complying with the following:

(A) Within 30 days of the date of the vehicle emissions inspection that allegedly caused the vehicle damage, the vehicle owner shall submit a vehicle damage claim to the contractor at the Official Inspection Station at which the vehicle damage allegedly occurred.

(B) Within 30 days of filing the claim, the owner shall submit to the contractor any relevant information relating to the owner's claim for vehicle damage, including but not limited to evaluations conducted by a claims evaluation center or automotive repair shop meeting standards prescribed by the Agency.

(4) The contractor shall promptly notify the Agency of each vehicle damage claim received by the contractor under subdivision (b)(3) and shall forward to the Agency any additional information provided by the owner.

(5) Within 60 days after the filing of a vehicle damage claim, the contractor shall notify the vehicle owner of its proposed resolution of the damage claim.

(6) Within 30 days after receiving the contractor's proposed resolution of the damage claim, the owner may petition the Agency for a review of the adequacy and completeness of the contractor's proposed resolution. The petition shall be in a form specified by the Agency.

(7) Upon receiving a petition for review, the Agency shall request the contractor to deliver to the Agency a copy of the contractor's proposed resolution of the damage claim, together with all documents, videotapes, and information relevant to the damage claim and the proposed resolution. The contractor shall provide the requested materials to the Agency within 15 days of receiving the Agency's request.

(8) Within 30 days after receiving the relevant materials from the contractor, the Agency shall review the materials and determine whether the contractor's proposed resolution of the damage claim is adequate and complete. The Agency may deem the proposed resolution of the damage claim to be adequate and complete. If the Agency does not deem the proposed resolution of the damage claim to be adequate and complete, it may request the contractor to further investigate and evaluate the damage claim and resubmit its proposed resolution of the claim. The contractor shall then have 30 days to respond in writing to the Agency with the results of its further evaluation of the damage claim and its proposed resolution.

(9) The Agency shall notify the vehicle owner in writing of the result of its review of the adequacy and completeness of the contractor's proposed resolution of the damage claim. Copies of all correspondence between the Agency and the contractor relating to the damage claim shall also be sent to the vehicle owner.

(10) If, after the Agency's review, the vehicle owner still does not agree with all or a portion of the proposed resolution of the damage claim by the contractor, the vehicle owner may further pursue the damage claim through the binding arbitration process established by the contractor and accepted by the Agency, or in circuit court.

(11) The Agency's review of the adequacy and completeness of the contractor's proposed resolution of a damage claim is not binding upon the vehicle owner or the contractor and does not affect the rights of the vehicle owner or the contractor under law. The Agency's review of the adequacy and completeness of the contractor's proposed resolution of a damage claim is not a final action subject to administrative review and is not subject to review by the Pollution Control Board or otherwise appealable.

(Source: P.A. 88-533.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing Senate Bill No. 1907, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2017

A bill for AN ACT concerning tobacco.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2017

House Amendment No. 2 to SENATE BILL NO. 2017

Passed the House, as amended, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2017

AMENDMENT NO. 1. Amend Senate Bill 2017 by replacing everything after the enacting clause with the following:

"Section 1. Short Title. This Act may be cited as the Tobacco Product Manufacturers' Escrow Enforcement Act.

Section 5. Definitions. As used in this Act:

"Cigarette" means that term as defined in Section 1 of the Cigarette Tax Act or Section 1 of the Cigarette Use Tax Act, as appropriate.

"Distributor" has the same meaning as that term is defined in Section 1 of the Cigarette Tax Act, Section 1 of the Cigarette Use Tax Act, or Section 10-5 of the Tobacco Products Tax Act of 1995, as appropriate.

"Participating manufacturer" has the same meaning as that term is defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

"Qualified escrow fund" has the same meaning as that term is defined in subdivision (a)(2)(A) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

"Stamps or imprints" means (i) revenue tax stamps or imprints as provided for in Section 3 of the Cigarette Tax Act or (ii) stamps or imprints evidencing the payment of use tax as provided for in Section 3 of the Cigarette Use Tax Act, as appropriate.

"Tobacco product manufacturer" has the same meaning as that term is defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act.

"Tobacco products" means that term as defined in Section 10-5 of

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the Tobacco Products Tax Act of 1995.

Section 15. Distributor's determination of tobacco product manufacturer compliance.

(a) A distributor of cigarettes under the Cigarette Tax Act or the Cigarette Use Tax Act, as appropriate, may not affix or cause to be affixed stamps or imprints to individual packages of cigarettes delivered or caused to be delivered by the distributor in this State if the tobacco product manufacturer of those cigarettes has:

(1) failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act; or

(2) failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

(b) The Department of Revenue may revoke, suspend, or cancel the license of a distributor of tobacco products under the Tobacco Products Tax Act of 1995 that are delivered or caused to be delivered by the distributor in this State if the tobacco product manufacturer of those tobacco products has:

(1) failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act; or

(2) failed to create a qualified escrow fund for any tobacco products manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

Section 20. Penalties. A distributor who violates this Act is subject to the same penalties as provided in Section 6 of the Cigarette Tax Act, Section 6 of the Cigarette Use Tax Act, or Section 10-25 of the Tobacco Products Tax Act of 1995, as appropriate.

Section 25. Rules. The Illinois Attorney General, in consultation with the Illinois Department of Revenue, shall adopt rules as necessary to effectuate compliance with this Act.

Section 905. The Cigarette Tax Act is amended by changing Sections 3 and 6 as follows:

(35 ILCS 130/3) (from Ch. 120, par. 453.3)

Sec. 3. Affixing tax stamp; remitting tax to the Department. Payment of the taxes imposed by Section 2 of this Act shall (except as hereinafter provided) be evidenced by revenue tax stamps affixed to each original package of cigarettes. Each distributor of cigarettes, before delivering or causing to be delivered any original package of cigarettes in this State to a purchaser, shall firmly affix a proper stamp or stamps to each such package, or (in case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) shall imprint the required language on the original package of cigarettes beneath such outside wrapper, as hereinafter provided.

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United

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States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or notice has been removed, mutilated, obliterated, or altered in any manner.

The Department, or any person authorized by the Department, shall sell such stamps only to persons holding valid licenses as distributors under this Act. The Department may refuse to sell stamps to any person who does not comply with the provisions of this Act.

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$500,000, whichever is less. The Bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100% of such distributor's average monthly tax liability under this Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time

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as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Any person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest filed within the time allowed by law, the Department's decision shall become final without any further determination being made or notice given.

The Department shall discharge any surety and shall release and return any bond or security deposited, assigned, pledged, or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) Such taxpayer becomes a prior continuous compliance taxpayer; or

(2) Such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability as determined by the Department under this Act. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed. If the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

The Department may authorize distributors to affix revenue tax stamps by imprinting tax meter stamps upon original packages of cigarettes. The Department shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes as herein imposed. No distributor may affix revenue tax stamps to original packages of cigarettes by imprinting tax meter stamps thereon unless such distributor has first obtained permission from the Department to employ this method of affixation. The Department shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Department to any distributor, to imprint tax meter stamps upon original packages of cigarettes.

Illinois cigarette manufacturers who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, and similar out-of-State cigarette manufacturers who elect to qualify and are accepted by the Department as distributors under Section 4b of this Act, shall pay the taxes imposed by this Act by

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remitting the amount thereof to the Department by the 5th day of each month covering cigarettes shipped or otherwise delivered in Illinois to purchasers during the preceding calendar month. Such manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to remit the taxes due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may designate. Such imprinted language shall acknowledge the manufacturer's payment of or liability for the tax imposed by this Act with respect to the distribution of such cigarettes.

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

(Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

(35 ILCS 130/6) (from Ch. 120, par. 453.6)

Sec. 6. Revocation, cancellation, or suspension of license. The Department may, after notice and hearing as provided for by this Act, revoke, cancel or suspend the license of any distributor for the violation of any provision of this Act, or for noncompliance with any provision herein contained, or for any noncompliance with any lawful rule or regulation promulgated by the Department under Section 8 of this Act, or because the licensee is determined to be ineligible for a distributor's license for any one or more of the reasons provided for in Section 4 of this Act. However, no such license shall be revoked, cancelled or suspended, except after a hearing by the Department with notice to the distributor, as aforesaid, and affording such distributor a reasonable opportunity to appear and defend, and any distributor aggrieved by any decision of the Department with respect thereto may have the determination of the Department judicially reviewed, as herein provided.

The Department may revoke, cancel, or suspend the license of any distributor for a violation of the Tobacco Product Manufacturers' Escrow Enforcement Act as provided in Section 20 of that Act.

Any distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to the distributor. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

No license so revoked, as aforesaid, shall be reissued to any such distributor within a period of 6 months after the date of the final determination of such revocation. No such license shall be

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reissued at all so long as the person who would receive the license is ineligible to receive a distributor's license under this Act for any one or more of the reasons provided for in Section 4 of this Act.

The Department upon complaint filed in the circuit court may by injunction restrain any person who fails, or refuses, to comply with any of the provisions of this Act from acting as a distributor of cigarettes in this State.

(Source: P.A. 91-901, eff. 1-1-01.)

Section 910. The Cigarette Use Tax Act is amended by changing Sections 3 and 6 as follows:

(35 ILCS 135/3) (from Ch. 120, par. 453.33)

Sec. 3. Stamp payment. The tax hereby imposed shall be collected by a distributor maintaining a place of business in this State or a distributor authorized by the Department pursuant to Section 7 hereof to collect the tax, and the amount of the tax shall be added to the price of the cigarettes sold by such distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes or by an authorized substitute for such stamp imprinted on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, except as hereinafter provided. Each distributor who is required or authorized to collect the tax herein imposed, before delivering or causing to be delivered any original packages of cigarettes in this State to any purchaser, shall firmly affix a proper stamp or stamps to each such package, or (in the case of manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper) shall imprint the required language on the original package of cigarettes beneath such outside wrapper as hereinafter provided. Such stamp or stamps need not be affixed to the original package of any cigarettes with respect to which the distributor is required to affix a like stamp or stamps by virtue of the Cigarette Tax Act, however, and no tax imprint need be placed underneath the sealed transparent wrapper of an original package of cigarettes with respect to which the distributor is required or authorized to employ a like tax imprint by virtue of the Cigarette Tax Act.

No stamp or imprint may be affixed to, or made upon, any package of cigarettes unless that package complies with all requirements of the federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331 and following, for the placement of labels, warnings, or any other information upon a package of cigarettes that is sold within the United States. Under the authority of Section 6, the Department shall revoke the license of any distributor that is determined to have violated this paragraph. A person may not affix a stamp on a package of cigarettes, cigarette papers, wrappers, or tubes if that individual package has been marked for export outside the United States with a label or notice in compliance with Section 290.185 of Title 27 of the Code of Federal Regulations. It is not a defense to a proceeding for violation of this paragraph that the label or notice has been removed, mutilated, obliterated, or altered in any manner.

Stamps, when required hereunder, shall be purchased from the Department, or any person authorized by the Department, by distributors. The Department may refuse to sell stamps to any person who does not comply with the provisions of this Act.

Prior to December 1, 1985, the Department shall allow a distributor 21 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 21 days thereafter: Provided that such distributor has filed with the Department, and has received the Department's

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approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 80% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$500,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 21-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

On and after December 1, 1985, the Department shall allow a distributor 30 days in which to make final payment of the amount to be paid for such stamps, by allowing the distributor to make payment for the stamps at the time of purchasing them with a draft which shall be in such form as the Department prescribes, and which shall be payable within 30 days thereafter, and beginning on January 1, 2003 and thereafter, the draft shall be payable by means of electronic funds transfer: Provided that such distributor has filed with the Department, and has received the Department's approval of, a bond, which is in addition to the bond required under Section 4 of this Act, payable to the Department in an amount equal to 150% of such distributor's average monthly tax liability to the Department under this Act during the preceding calendar year or \$750,000, whichever is less, except that as to bonds filed on or after January 1, 1987, such additional bond shall be in an amount equal to 100% of such distributor's average monthly tax liability under this Act during the preceding calendar year or \$750,000, whichever is less. The bond shall be joint and several and shall be in the form of a surety company bond in such form as the Department prescribes, or it may be in the form of a bank certificate of deposit or bank letter of credit. The bond shall be conditioned upon the distributor's payment of the amount of any 30-day draft which the Department accepts from that distributor for the delivery of stamps to that distributor under this Act. The distributor's failure to pay any such draft, when due, shall also make such distributor automatically liable to the Department for a penalty equal to 25% of the amount of such draft.

Every prior continuous compliance taxpayer shall be exempt from all requirements under this Section concerning the furnishing of such bond, as defined in this Section, as a condition precedent to his being authorized to engage in the business licensed under this Act. This exemption shall continue for each such taxpayer until such time as he may be determined by the Department to be delinquent in the filing of any returns, or is determined by the Department (either through the Department's issuance of a final assessment which has become final under the Act, or by the taxpayer's filing of a return which admits tax to be due that is not paid) to be delinquent or deficient in the paying of any tax under this Act, at which time that taxpayer shall become subject to the bond requirements of this Section and, as a condition of being allowed to continue to engage in the business licensed under this Act, shall be required to furnish bond to the Department in such form as provided in this Section. Such taxpayer shall furnish such bond for a period of 2 years, after which, if the taxpayer has not been delinquent in the filing of any returns, or delinquent or deficient in the paying of any tax under this Act, the Department may reinstate such person as a prior continuance compliance taxpayer. Any taxpayer who fails to pay an

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admitted or established liability under this Act may also be required to post bond or other acceptable security with the Department guaranteeing the payment of such admitted or established liability.

Any person aggrieved by any decision of the Department under this Section may, within the time allowed by law, protest and request a hearing, whereupon the Department shall give notice and shall hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to such person. In the absence of such a protest filed within the time allowed by law, the Department's decision shall become final without any further determination being made or notice given.

The Department shall discharge any surety and shall release and return any bond or security deposited, assigned, pledged, or otherwise provided to it by a taxpayer under this Section within 30 days after:

(1) such Taxpayer becomes a prior continuous compliance taxpayer; or

(2) such taxpayer has ceased to collect receipts on which he is required to remit tax to the Department, has filed a final tax return, and has paid to the Department an amount sufficient to discharge his remaining tax liability as determined by the Department under this Act. The Department shall make a final determination of the taxpayer's outstanding tax liability as expeditiously as possible after his final tax return has been filed. If the Department cannot make such final determination within 45 days after receiving the final tax return, within such period it shall so notify the taxpayer, stating its reasons therefor.

At the time of purchasing such stamps from the Department when purchase is required by this Act, or at the time when the tax which he has collected is remitted by a distributor to the Department without the purchase of stamps from the Department when that method of remitting the tax that has been collected is required or authorized by this Act, the distributor shall be allowed a discount during any year commencing July 1 and ending the following June 30 in accordance with the schedule set out hereinbelow, from the amount to be paid by him to the Department for such stamps, or to be paid by him to the Department on the basis of monthly remittances (as the case may be), to cover the cost, to such distributor, of collecting the tax herein imposed by affixing such stamps to the original packages of cigarettes sold by such distributor or by placing tax imprints underneath the sealed transparent wrapper of original packages of cigarettes sold by such distributor (as the case may be):

(1) Prior to December 1, 1985, a discount equal to 1-2/3% of the amount of the tax up to and including the first \$700,000 paid hereunder by such distributor to the Department during any such year; 1-1/3% of the next \$700,000 of tax or any part thereof, paid hereunder by such distributor to the Department during any such year; 1% of the next \$700,000 of tax, or any part thereof, paid hereunder by such distributor to the Department during any such year; and 2/3 of 1% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year or (2) On and after December 1, 1985, a discount equal to 1.75% of the amount of the tax payable under this Act up to and including the first \$3,000,000 paid hereunder by such distributor to the Department during any such year and 1.5% of the amount of any additional tax paid hereunder by such distributor to the Department during any such year.

Two or more distributors that use a common means of affixing revenue tax stamps or that are owned or controlled by the same

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interests shall be treated as a single distributor for the purpose of computing the discount.

Cigarette manufacturers who are distributors under this Act, and who place their cigarettes in original packages which are contained inside a sealed transparent wrapper, shall be required to remit the tax which they are required to collect under this Act to the Department by remitting the amount thereof to the Department by the 5th day of each month, covering cigarettes shipped or otherwise delivered to points in Illinois to purchasers during the preceding calendar month, but a distributor need not remit to the Department the tax so collected by him from purchasers under this Act to the extent to which such distributor is required to remit the tax imposed by the Cigarette Tax Act to the Department with respect to the same cigarettes. All taxes upon cigarettes under this Act are a direct tax upon the retail consumer and shall conclusively be presumed to be precollected for the purpose of convenience and facility only. Distributors who are manufacturers of cigarettes in original packages which are contained inside a sealed transparent wrapper, before delivering such cigarettes or causing such cigarettes to be delivered in this State to purchasers, shall evidence their obligation to collect and remit the tax due with respect to such cigarettes by imprinting language to be prescribed by the Department on each original package of such cigarettes underneath the sealed transparent outside wrapper of such original package, in such place thereon and in such manner as the Department may prescribe; provided (as stated hereinbefore) that this requirement does not apply when such distributor is required or authorized by the Cigarette Tax Act to place the tax imprint provided for in the last paragraph of Section 3 of that Act underneath the sealed transparent wrapper of such original package of cigarettes. Such imprinted language shall acknowledge the manufacturer's collection and payment of or liability for the tax imposed by this Act with respect to such cigarettes.

The Department shall adopt the design or designs of the tax stamps and shall procure the printing of such stamps in such amounts and denominations as it deems necessary to provide for the affixation of the proper amount of tax stamps to each original package of cigarettes.

Where tax stamps are required, the Department may authorize distributors to affix revenue tax stamps by imprinting tax meter stamps upon original packages of cigarettes. The Department shall adopt rules and regulations relating to the imprinting of such tax meter stamps as will result in payment of the proper taxes as herein imposed. No distributor may affix revenue tax stamps to original packages of cigarettes by imprinting meter stamps thereon unless such distributor has first obtained permission from the Department to employ this method of affixation. The Department shall regulate the use of tax meters and may, to assure the proper collection of the taxes imposed by this Act, revoke or suspend the privilege, theretofore granted by the Department to any distributor, to imprint tax meter stamps upon original packages of cigarettes.

The tax hereby imposed and not paid pursuant to this Section shall be paid to the Department directly by any person using such cigarettes within this State, pursuant to Section 12 hereof.

A distributor shall not affix, or cause to be affixed, any stamp or imprint to a package of cigarettes, as provided for in this Section, if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the cigarettes has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product Manufacturers' Escrow Act, or has failed to create a

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qualified escrow fund for any cigarettes manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

(Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

(35 ILCS 135/6) (from Ch. 120, par. 453.36)

Sec. 6. Revocation, cancellation, or suspension of license. The Department may, after notice and hearing as provided for by this Act, revoke, cancel or suspend the license of any distributor for the violation of any provision of this Act, or for non-compliance with any provision herein contained, or for any non-compliance with any lawful rule or regulation promulgated by the Department under Section 21 of this Act, or because the licensee is determined to be ineligible for a distributor's license for any one or more of the reasons provided for in Section 4 of this Act. However, no such license shall be revoked, canceled or suspended, except after a hearing by the Department with notice to the distributor, as aforesaid, and affording such distributor a reasonable opportunity to appear and defend, and any distributor aggrieved by any decision of the Department with respect thereto may have the determination of the Department judicially reviewed, as herein provided.

The Department may revoke, cancel, or suspend the license of any distributor for a violation of the Tobacco Product Manufacturers' Escrow Enforcement Act as provided in Section 20 of that Act.

Any distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the Department shall give notice in writing to the distributor requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. The Department shall hold the hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to the distributor. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

No license so revoked, shall be reissued to any such distributor within a period of 6 months after the date of the final determination of such revocation. No such license shall be reissued at all so long as the person who would receive the license is ineligible to receive a distributor's license under this Act for any one or more of the reasons provided for in Section 4 of this Act.

The Department upon complaint filed in the circuit court may by injunction restrain any person who fails, or refuses, to comply with this Act from acting as a distributor of cigarettes in this State.

(Source: P.A. 91-901, eff. 1-1-01.)

Section 915. The Tobacco Products Tax Act of 1995 is amended by changing Sections 10-20 and 10-25 as follows:

(35 ILCS 143/10-20)

Sec. 10-20. Licenses. It shall be unlawful for any person to engage in business as a distributor of tobacco products within the meaning of this Act without first having obtained a license to do so from the Department. Application for that license shall be made to the Department in a form prescribed and furnished by the Department. Each applicant for a license shall furnish to the Department on a form, signed and verified by the applicant, the following information:

- (1) The name of the applicant.
- (2) The address of the location at which the applicant proposes to engage in business as a distributor of tobacco

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products.

(3) Other information the Department may reasonably require.

Except as otherwise provided in this Section, every applicant who is required to procure a distributor's license shall file with his or her application a joint and several bond. The bond shall be executed to the Department of Revenue, with good and sufficient surety or sureties residing or licensed to do business within the State of Illinois, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this Act. The Department shall fix the amount of the bond for each applicant, taking into consideration the amount of money expected to become due from the applicant under this Act. The amount of bond required by the Department shall be an amount that, in its opinion, will protect the State of Illinois against failure to pay the amount that may become due from the applicant under this Act, but the amount of the security required by the Department shall not exceed 3 times the amount of the applicant's average monthly tax liability, or \$50,000, whichever amount is lower. The bond, a reissue, or a substitute shall be kept in full force and effect during the entire period covered by the license. A separate application for license shall be made, and bond filed, for each place of business at which a person who is required to procure a distributor's license proposes to engage in business as a distributor under this Act.

The Department, upon receipt of an application and bond in proper form, shall issue to the applicant a license, in a form prescribed by the Department, which shall permit the applicant to whom it is issued to engage in business as a distributor at the place shown on his or her application. The license shall be issued by the Department without charge or cost to the applicant. No license issued under this Act is transferable or assignable. The license shall be conspicuously displayed in the place of business conducted by the licensee under the license.

The bonding requirement in this Section does not apply to an applicant for a distributor's license who is already bonded under the Cigarette Tax Act or the Cigarette Use Tax Act. Licenses issued by the Department under this Act shall be valid for a period not to exceed one year after issuance unless sooner revoked, canceled, or suspended as provided in this Act.

No license shall be issued to any person who is in default to the State of Illinois for moneys due under this Act or any other tax Act administered by the Department.

The Department may, in its discretion, upon application, authorize the payment of the tax imposed under Section 10-10 by any distributor or manufacturer not otherwise subject to the tax imposed under this Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax. The distributor or manufacturer shall be issued, without charge, a license to remit the tax. When so authorized, it shall be the duty of the distributor or manufacturer to remit the tax imposed upon the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State, in the same manner and subject to the same requirements as any other distributor or manufacturer licensed under this Act.

The Department may revoke, suspend, or cancel the license of a distributor of tobacco products under this Act if the tobacco product manufacturer, as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, that made or sold the tobacco products has failed to become a participating manufacturer, as defined in subdivision (a)(1) of Section 15 of the Tobacco Product

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Manufacturers' Escrow Act, or has failed to create a qualified escrow fund for any tobacco products manufactured by the tobacco product manufacturer and sold in this State or otherwise failed to bring itself into compliance with subdivision (a)(2) of Section 15 of the Tobacco Product Manufacturers' Escrow Act.

Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of that decision, protest and request a hearing, whereupon the Department must give notice to that person of the time and place fixed for the hearing and must hold a hearing in conformity with the provisions of this Act and then issue its final administrative decision in the matter to that person. In the absence of such a protest within 20 days, the Department's decision becomes final without any further determination being made or notice given.

(Source: P.A. 92-231, eff. 8-2-01.)

(35 ILCS 143/10-25)

Sec. 10-25. License actions. The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any distributor who violates any of the provisions of this Act. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is based.

The Department may revoke, cancel, or suspend the license of any distributor for a violation of the Tobacco Product Manufacturers' Escrow Enforcement Act as provided in Section 20 of that Act.

The Department may, by application to any circuit court, obtain an injunction restraining any person who engages in business as a distributor of tobacco products without a license (either because his or her license has been revoked, canceled, or suspended or because of a failure to obtain a license in the first instance) from engaging in that business until that person, as if that person were a new applicant for a license, complies with all of the conditions, restrictions, and requirements of Section 10-20 of this Act and qualifies for and obtains a license. Refusal or neglect to obey the order of the court may result in punishment for contempt.

(Source: P.A. 89-21, eff. 6-6-95.)

Section 999. Effective date. This Act takes effect upon becoming law."

AMENDMENT NO. 2 TO SENATE BILL 2017

AMENDMENT NO. 2. Amend Senate Bill 2017, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 1, by replacing lines 7 through 9 with the following:

"Cigarette" means that term as defined in Section 10 of the Tobacco Product Manufacturers' Escrow Act, which includes roll-your-own tobacco."; and

on page 2, by deleting lines 6 and 7; and

on page 2, line 26, by replacing "tobacco products" with "roll-your-own tobacco"; and

on page 2, line 27, by replacing "are" with "is"; and

on page 2, line 29, by replacing "those tobacco products" with "the roll-your-own tobacco"; and

on page 3, line 2, by replacing "tobacco products" with "roll-your-own tobacco"; and

on page 22, line 16, by replacing "tobacco products" with "roll-your-own tobacco (as that term is used in Section 10 of the Tobacco Product Manufacturers' Escrow Act)"; and

on page 22, line 19, by replacing "tobacco products" with "roll-your-own tobacco"; and

on page 22, lines 22 and 23, by replacing "tobacco products" with

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"roll-your-own tobacco".

Under the rules, the foregoing Senate Bill No. 2017, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2155

A bill for AN ACT in relation to civil liabilities.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2155

House Amendment No. 4 to SENATE BILL NO. 2155

Passed the House, as amended, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2155

AMENDMENT NO. 1. Amend Senate Bill 2155 on page 2, below line 19, by inserting the following:

"(d) The civil immunity in subsection (c) does not apply if there is willful or wanton misconduct outside the normal use of the off-road riding facility."

AMENDMENT NO. 4 TO SENATE BILL 2155

AMENDMENT NO. 4. Amend Senate Bill 2155 on page 2, by replacing lines 17 through 19 with the following:

"(3) The off-road riding facility is operated by a governmental entity or the off-road riding facility was the recipient of grants under the Recreational Trails of Illinois Act."

Under the rules, the foregoing Senate Bill No. 2155, with House Amendments numbered 1 and 4, was referred to the Secretary's Desk.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 173

A bill for AN ACT concerning conservation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 173.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the

[May 22, 2002]

adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 1081

A bill for AN ACT concerning open burning.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 1081.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 1692

A bill for AN ACT with regard to education.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 1692.

Senate Amendment No. 2 to HOUSE BILL NO. 1692.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 3673

A bill for AN ACT in relation to schools.

Which amendments are as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 3673.

Senate Amendment No. 3 to HOUSE BILL NO. 3673.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 4228

A bill for AN ACT concerning corporation.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 4228.

Senate Amendment No. 2 to HOUSE BILL NO. 4228.

Concurred in by the House, May 22, 2002.

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ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4230

A bill for AN ACT in relation to taxation.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4230.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 4365

A bill for AN ACT in relation to highways.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 4365.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 5615

A bill for AN ACT in relation to vehicles.

Which amendment is as follows:
Senate Amendment No. 1 to HOUSE BILL NO. 5615.

Concurred in by the House, May 22, 2002.

ANTHONY D. ROSSI, Clerk of the House

EXCUSED FROM ATTENDANCE

On motion of Senator Bomke, Senator Myers was excused from attendance due to legislative business.

REPORTS FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, during its May 22, 2002 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committee of the Senate:

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Executive: Senate Joint Resolution No. 69 and Senate Resolution No. 427.

Senator Weaver, Chairperson of the Committee on Rules, during its May 22, 2002 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

Transportation: Senate Amendment No. 2 to House Bill 5240.

Senator Weaver, Chairperson of the Committee on Rules, during its May 22, 2002 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Environment and Energy: Motion to Concur with House Amendments 1, 2 and 5 to Senate Bill 2081; Motion to Concur with House amendments 1, 2 and 3 to Senate Bill 2235.

Judiciary: Motion to Concur with House Amendments 1 and 2 to Senate Bill 2024.

HOUSE BILLS RECALLED

On motion of Senator Bomke, House Bill No. 2671 was recalled from the order of third reading to the order of second reading.

Senators Bomke - Philip offered the following amendment:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2671 by replacing the title with the following:

"AN ACT in relation to public employee benefits."; and
by replacing everything after the enacting clause with the following:
"Section 5. The State Finance Act is amended by changing Section 15a as follows:

(30 ILCS 105/15a) (from Ch. 127, par. 151a)

Sec. 15a. Contractual services. The item "contractual services", when used in an appropriation act, means and includes:

(a) Expenditures incident to the current conduct and operation of an office, department, board, commission, institution or agency for postage and postal charges, surety bond premiums, publications, subscriptions, office conveniences and services, exclusive of commodities as herein defined;

(b) Expenditures for rental of property or equipment, repair or maintenance of property or equipment including related supplies, equipment, materials, services, replacement fixtures and repair parts, utility services, professional or technical services, moving expenses incident to a new State employment, and transportation charges exclusive of "travel" as herein defined;

(c) Expenditures for the rental of lodgings in Springfield, Illinois and for the payment of utilities used in connection with such lodgings for all elected State officials, who are required by Section 1, Article V of the Constitution of the State of Illinois to reside at the seat of government during their term of office;

(d) Expenditures pursuant to multi-year lease, lease-purchase or installment purchase contracts for duplicating equipment authorized by Section 5.1 of the Illinois Purchasing Act;

(e) Expenditures of \$5,000 or less per project for improvements to real property which, except for the operation of

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this Section, would be classified as "permanent improvements" as defined in Section 21;

(f) Expenditures pursuant to multi-year lease, lease-purchase or installment purchase contracts for land, permanent improvements or fixtures.

The item "contractual services" does not, however, include any expenditures included in "operation of automotive equipment" as defined in Section 24.2.

The item "contractual services" does not include any expenditures for professional, technical, or other services performed for a State agency under a contract executed after July 1 the effective date of this amendatory Act of 1992 by a person who was formerly employed by that agency and has received any early retirement incentive under Section 14-108.3 or 16-133.3 of the Illinois Pension Code based on retirement before 1993, unless the official or employee executing the contract on behalf of the agency has certified that the person performing the services either (i) possesses unique expertise, or (ii) is essential to the operation of the agency. This certification must be filed with the Office of the Auditor General prior to the execution of the contract, and shall be made available by that Office for public inspection and copying. The item "contractual services" does not include any expenditures for professional, technical, or other services performed for a State agency under a contract executed after the effective date of this amendatory Act of the 92nd General Assembly by a person who has received any early retirement incentive under Section 14-108.3 or 16-133.3 of the Illinois Pension Code based on retirement in 2002 or later. A contract not payable from the contractual services item because of this paragraph shall not be payable from any other item of appropriation. For the purposes of this paragraph, the term "agency" includes all offices, boards, commissions, departments, agencies, and institutions of State government.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 10. The Illinois Pension Code is amended by changing Sections 14-105, 14-108.3 and 16-133.3 as follows:

(40 ILCS 5/14-105) (from Ch. 108 1/2, par. 14-105)

Sec. 14-105. Service credit for which contributions are not required.

(a) Each employee in service on December 31, 1943, or then on leave of absence not in conflict with Civil Service rules, if such leave had not extended for more than one year continuously, or who is otherwise entitled to prior service credit, who becomes a member shall file with the board on a form supplied by it, a detailed statement of all service rendered prior to January 1, 1944, for which credit is claimed.

Upon verification thereof, the board shall issue a prior service certificate certifying length of prior service. A prior service certificate shall be conclusive so long as membership continues, provided, that a member may, within one year from the date of original issuance of the certificate or modification thereof, request the board to modify or correct the certificate.

When membership ceases, a prior service certificate shall become void, and shall be revived only under the conditions specified in this Article.

In the computation of prior service, the following schedule shall govern: 9 months of service or more during any fiscal year constitutes a year of service; 6 to 9 months, 3/4 of a year; 3 to 6 months, 1/2 year; less than 3 months shall not be considered. Credit shall not be allowed for any period of absence without compensation or for less than 15 days service in any month, nor shall more than

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one year of service be creditable for all service rendered in any one fiscal year.

(b) Any member shall receive credit for military service provided all of the following conditions are met:

(1) the member was a State employee within 6 months immediately prior to entry into military service;

(2) the member returns as a State employee within 15 months after his unconditional discharge other than by dishonorable discharge; and

(3) the member establishes creditable service for State employment immediately prior to and following the military service.

The total amount of creditable military service for any member during his entire term of service shall not exceed 5 years in the aggregate, except that any member who on July 1, 1963, had accrued more than 5 years of such credit shall be entitled to the total amount of such accrued credit.

(c) Any active member of the System who (1) was earning eligible creditable service under subdivision (b)(12) of Section 14-110 on January 1, 1992, and (2) has at least 17 years of creditable service under Article 5, and (3) is eligible to transfer that creditable service to this System under subsection (c) of Section 5-236 of this Code, and (4) applies in writing for transfer of that creditable service to this System within 30 days after the effective date of this amendatory Act of 1993, shall receive eligible creditable service in this System for that creditable service upon receipt by this System of the amounts transferred under Section 5-236. No additional contributions shall be required for the transferred service.

(d) Any active member of the system who (1) was earning eligible creditable service under subdivision (b)(5) of Section 14-110 on January 1, 1992, and (2) has no more than 7 years of creditable service as a municipal conservator of the peace under Article 7, and (3) is eligible to transfer that creditable service to this System under subsection (a) of Section 7-139.7 of this Code, and (4) makes written notification to this System by January 31, 1994, shall receive eligible creditable service in this System for that service upon receipt by this System of the amounts transferred under Section 7-139.7. No additional contributions shall be required for the transferred service.

(e) Any member may establish creditable service and earnings credit for a period of voluntary or involuntary furlough, not exceeding 5 days, beginning on or after December 1, 2001 and ending before January 1, 2003, that is utilized as a means of addressing a State fiscal emergency. To receive this credit, the member must apply in writing to the System or the member's employer before July 1, 2005. No additional contribution is required for this credit.

(Source: P.A. 87-1265.)

(40 ILCS 5/14-108.3)

Sec. 14-108.3. Early retirement incentives.

(a) To be eligible for the benefits provided in this Section, a person must:

(1) be a member of this System who, on any day during June, 2002, is (i) in active payroll status in a position of employment with a department and an active contributor to this System with respect to that employment, and terminates that employment before the retirement annuity under this Article begins, or (ii) on layoff status from such a position with a right of re-employment or recall to service, or (iii) receiving benefits under Section 14-123, 14-123.1 or 14-124, but only if the member has not been

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receiving those benefits for a continuous period of more than 2 years as of the date of application;

(2) not have received any retirement annuity under this Article beginning earlier than August 1, 2002;

(3) file with the Board on or before December 31, 2002 a written application requesting the benefits provided in this Section;

(4) terminate employment under this Article no later than December 31, 2002 (or the date established under subsection (d), if applicable);

(5) by the date of termination of service, have at least 8 years of creditable service under this Article, without the use of any creditable service established under this Section;

(6) by the date of termination of service, have at least 5 years of membership service earned while an employee under this Article, which may include military service for which credit is established under Section 14-105(b), service during the qualifying period for which credit is established under Section 14-104(a), and service for which credit has been established by repaying a refund under Section 14-130, but shall not include service for which any other optional service credit has been established; and

(7) not receive any early retirement benefit under Section 16-133.3 of this Code.

(b) An eligible person may establish up to 5 years of creditable service under this Article, in increments of one month, by making the contributions specified in subsection (c). In addition, for each month of creditable service established under this Section, a person's age at retirement shall be deemed to be one month older than it actually is.

The creditable service established under this Section may be used for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of final average compensation under Section 14-103.12 or the determination of compensation under this or any other Article of this Code.

The age enhancement established under this Section may not be used to enable any person to begin receiving a retirement annuity calculated under Section 14-110 before actually attaining age 50 (without any age enhancement under this Section). The age enhancement established under this Section may be used for all other purposes under this Article (including calculation of a proportionate annuity payable by this System under the Retirement Systems Reciprocal Act), except for purposes of the level income option in Section 14-112, the reversionary annuity under Section 14-113, and the required distributions under Section 14-121.1.

The age enhancement established under this Section may be used in determining benefits payable under Article 16 of this Code under the Retirement Systems Reciprocal Act, if the person has at least 5 years of service credit in the Article 16 system that was earned while participating in that system as a teacher (as defined in Section 16-106) employed by a department (as defined in Section 14-103.04). Age enhancement established under this Section shall not otherwise be used in determining benefits payable under other Articles of this Code under the Retirement Systems Reciprocal Act.

(c) For all creditable service established under this Section, a person must pay to the System an employee contribution to be determined by the System, based on the member's rate of compensation on June 1, 2002 (or the last date before June 1, 2002 for which a rate can be determined) and the retirement contribution rate in effect on June 1, 2002 for the member (or for members with the same

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social security and alternative formula status as the member).

If the member receives a lump sum payment for accumulated vacation, sick leave and personal leave upon withdrawal from service, and the net amount of that lump sum payment is at least as great as the amount of the contribution required under this Section, the entire contribution must be paid by the employee by payroll deduction. If there is no such lump sum payment, or if it is less than the contribution required under this Section, the member shall make an initial payment by payroll deduction, equal to the net amount of the lump sum payment for accumulated vacation, sick leave, and personal leave, and have the remaining amount due treated as a reduction from the retirement annuity in 24 equal monthly installments beginning in the month in which the retirement annuity takes effect. The required contribution may be paid as a pre-tax deduction from earnings. For federal and Illinois tax purposes, the monthly amount by which the annuitant's benefit is reduced shall not be treated as a contribution by the annuitant, but rather as a reduction of the annuitant's monthly benefit.

(c-5) The reduction in retirement annuity provided in subsection (c) of Section 14-108 does not apply to the annuity of a person who retires under this Section. A person who has received any age enhancement or creditable service under this Section may begin to receive an unreduced retirement annuity upon attainment of age 55 with at least 25 years of creditable service (including any age enhancement and creditable service established under this Section).

(d) In order to ensure that the efficient operation of State government is not jeopardized by the simultaneous retirement of large numbers of key personnel, the director or other head of a department may, for key employees of that department, extend the December 31, 2002 deadline for terminating employment under this Article established in subdivision (a)(4) of this Section to a date not later than April 30, 2003 by so notifying the System in writing by December 31, 2002.

(e) Notwithstanding Section 14-111, a person who has received any age enhancement or creditable service under this Section and who reenters service under this Article (or as an employee of a department under Article 16) other than as a temporary employee thereby forfeits that age enhancement and creditable service and is entitled to a refund of the contributions made pursuant to this Section.

(f) The System shall determine the amount of the increase in unfunded accrued liability resulting from the granting of early retirement incentives under this Section and shall report that amount to the Governor and the Pension Laws Commission on or before November 15, 2003. The increase in liability reported under this subsection (f) shall not be included in the calculation of the required State contribution under Section 14-131.

(g) The System shall determine the amount of the annual State contribution necessary to amortize on a level dollar-payment basis, over a period of 10 years at 8.5% interest, compounded annually, an amount equal to the increase in unfunded accrued liability determined under subsection (f) minus \$70,000,000. The System shall certify the amount of this annual State contribution to the Governor, the State Comptroller, the Bureau of the Budget, and the Pension Laws Commission on or before November 15, 2003.

In addition to the contributions otherwise required under this Article, the State shall appropriate and pay to the System (1) an amount equal to \$70,000,000 in State fiscal year 2004 and (2) in each of State fiscal years 2005 through 2013, an amount equal to the annual State contribution certified by the System under this

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subsection (g).

(h) The Pension Laws Commission shall determine and report to the General Assembly, on or before January 1, 2004 and annually thereafter through the year 2013, its estimate of (1) the annual amount of payroll savings likely to be realized by the State as a result of the early retirement of persons receiving early retirement incentives under this Section and (2) the net annual savings or cost to the State from the program of early retirement incentives created under this Section.

The System, the Department of Central Management Services, the Bureau of the Budget, and all other departments shall provide to the Commission any assistance that the Commission may request with respect to its reports under this Section. The Commission may require departments to provide it with any information that it deems necessary or useful with respect to its reports under this Section, including without limitation information about (1) the final earnings of former department employees who elected to receive benefits under this Section, (2) the earnings of current department employees holding the positions vacated by persons who elected to receive benefits under this Section, and (3) positions vacated by persons who elected to receive benefits under this Section that have not yet been refilled.

(i) The changes made to this Section by this amendatory Act of the 92nd General Assembly do not apply to persons who retired under this Section on or before May 1, 1992.

~~{a)--To be eligible for the benefits provided in this Section,-- a person must--~~

~~{1)--be--a member of this System who, on any day during May, 1991, is--(i)--in active payroll status in a position of employment with a department, or--(ii)--on layoff status from such a position with a right of re-employment or recall to service, or--(iii)--on leave of absence from such a position, but only if the member on leave has not been receiving benefits under Section 14-123, 14-123.1 or 14-124 for a continuous period of 2 years or more as of the date of application;~~

~~{2)--have not retired under this Article;~~

~~{3)--file with the Board before December 1, 1991, a written application requesting the benefits provided in this Section;~~

~~{4)--establish eligibility to receive a retirement annuity under this Article--(for which purpose any age enhancement or creditable service received under this Section may be used)--and elect to receive the retirement annuity beginning not earlier than the first day of the month following the month in which this amendatory Act of 1991 takes effect, and not later than January 1, 1992--(or the date established under subsection (e) if applicable);~~

~~{5)--have attained age 50 or accumulated 30 or more years of creditable service--(without the use of any age enhancement or creditable service received under this Section) by December 31, 1991.~~

~~{b)--An eligible person may establish up to 5 years of creditable service under this Article, in increments of one month, by making the contributions specified in subsection (c).--In addition, for each month of creditable service established under this Section, a person's age at retirement shall be deemed to be one month older than it actually is.~~

~~The creditable service established under this Section may be used for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of final average compensation under Section 14-103.12, or the determination of~~

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compensation under this or any other Article of this Code.

The age enhancement established under this Section may be used for all purposes under this Article (including calculation of a proportionate annuity payable by this System under the Retirement Systems Reciprocal Act), except for purposes of the level income option in Section 14-112, the reversionary annuity under Section 14-113, and the required distributions under Section 14-121.1. However, age enhancement established under this Section shall not be used in determining benefits payable under other Articles of this Code under the Retirement Systems Reciprocal Act.

(c) For all creditable service established under this Section, a person must pay to the System an employee contribution to be determined by the System, based on the member's final rate of compensation and one-half of the retirement contribution rate in effect for the member on the date of withdrawal.

If the member receives a lump sum payment for accumulated vacation, sick leave and personal leave upon withdrawal from service, and the net amount of that lump sum payment is at least as great as the amount of the contribution required under this Section, the entire contribution (or so much of it as does not exceed the contribution limitations of Section 415 of the Internal Revenue Code of 1986) must be paid by the employee before the retirement annuity may become payable. If there is no such lump sum payment, or if it is less than the contribution required under this Section the member may either pay the entire contribution before the retirement annuity becomes payable, or may instead make an initial payment before the retirement annuity becomes payable, equal to the net amount of the lump sum payment for accumulated vacation, sick leave and personal leave (or so much of it as does not exceed the contribution limitations of Section 415 of the Internal Revenue Code of 1986), and have the remaining amount due deducted from the retirement annuity in 24 equal monthly installments beginning in January of 1992 or in the month in which the retirement annuity takes effect, whichever is later.

However, if the net amount of the lump sum payment for accumulated vacation, sick leave and personal leave equals or exceeds the contribution required under this Section, but the required contribution exceeds an applicable contribution limitation contained in Section 415 of the Internal Revenue Code of 1986, then the amount of the contribution in excess of the Section 415 limitation shall instead be paid by the annuitant in January of 1992 or in the month in which the retirement annuity takes effect, whichever is later. If this additional amount is not paid as required, the retirement annuity shall be suspended until the required contribution is received.

(d) In the event that the age enhancement or creditable service received under this Section results in a retirement benefit that exceeds any applicable benefit limitation contained in Section 415 of the Internal Revenue Code of 1986, the amount of the retirement benefit that exceeds the Section 415 limitation shall not be paid for any period to which the limitation is applicable. If no contributions are otherwise due in 1992 and 1993 under subsection (c) from an annuitant whose retirement benefits are subject to limitation under this subsection, then 10% of the contribution otherwise required under subsection (c) to be paid before the retirement annuity becomes payable shall instead be contributed to the System by the annuitant in January of 1993.

(e) In order to ensure that the public health and safety are not jeopardized by the simultaneous retirement of large numbers of critical personnel, the Director of State Police (for State police

~~officers under the Department of State Police) and the Director of Corrections (for security staff at adult and juvenile institutions under the Department of Corrections) may extend the January 1, 1992 deadline for the effective date of a retirement annuity established in subdivision (a)(4) of this Section to a date not later than May 1, 1992, by so notifying the System in writing no later than December 31, 1991.~~

~~In order to ensure that the efficient operation of the courts of this State is not jeopardized by the simultaneous retirement of large numbers of court reporters, the Chief Justice of the Illinois Supreme Court may, for official court reporters employed in the courts of this State, extend the January 1, 1992 deadline for the effective date of a retirement annuity established in subdivision (a)(4) of this Section to a date not later than May 1, 1992, by so notifying the System in writing no later than December 31, 1991.~~

~~(f) Notwithstanding Section 14-111, an annuitant who has received any age enhancement or creditable service under this Section and who reenters service under this Article other than as a temporary employee shall thereby forfeit such age enhancement and creditable service, and become entitled to a refund of the contributions made pursuant to this Section.~~

~~(Source: P.A. 87-14.)~~

~~(40 ILCS 5/16-133.3) (from Ch. 108 1/2, par. 16-133.3)~~

~~Sec. 16-133.3. Early retirement incentives for State employees.~~

~~(a) To be eligible for the benefits provided in this Section, a person must:~~

~~(1) be a member of this System who, on any day during June, 2002, is (i) in active payroll status as a full-time teacher employed by a department and an active contributor to this System with respect to that employment, or (ii) on layoff status from such a position with a right of re-employment or recall to service, or (iii) receiving a disability benefit under Section 16-149 or 16-149.1, but only if the member has not been receiving that benefit for a continuous period of more than 2 years as of the date of application;~~

~~(2) not have received any retirement annuity under this Article beginning earlier than August 1, 2002;~~

~~(3) file with the Board on or before December 31, 2002 a written application requesting the benefits provided in this Section;~~

~~(4) terminate employment under this Article no later than December 31, 2002 (or the date established under subsection (d), if applicable);~~

~~(5) by the date of termination of service, have at least 8 years of creditable service under this Article, without the use of any creditable service established under this Section;~~

~~(6) by the date of termination of service, have at least 5 years of service credit earned while participating in the System as a teacher employed by a department; and~~

~~(7) not receive any early retirement benefit under Section 14-108.3 of this Code.~~

~~For the purposes of this Section, "department" means a department as defined in Section 14-103.04 that employs a teacher as defined in this Article.~~

~~(b) An eligible person may establish up to 5 years of creditable service under this Article by making the contributions specified in subsection (c). In addition, for each period of creditable service established under this Section, a person's age at retirement shall be deemed to be enhanced by an equivalent period.~~

~~The creditable service established under this Section may be used~~

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for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of final average salary, the determination of salary or compensation under this Article or any other Article of this Code, or the determination of eligibility for or the computation of benefits under Section 16-133.2.

The age enhancement established under this Section may be used for all purposes under this Article (including calculation of a proportionate annuity payable by this System under the Retirement Systems Reciprocal Act), except for purposes of a retirement annuity under Section 16-133(a)(A), a reversionary annuity under Section 16-136, the required distributions under Section 16-142.3, and the determination of eligibility for or the computation of benefits under Section 16-133.2. Age enhancement established under this Section may be used in determining benefits payable under Article 14 of this Code under the Retirement Systems Reciprocal Act (subject to the limitations on the use of age enhancement provided in Section 14-108.3); age enhancement established under this Section shall not be used in determining benefits payable under other Articles of this Code under the Retirement Systems Reciprocal Act.

(c) For all creditable service established under this Section, a person must pay to the System an employee contribution to be determined by the System, equal to 9.0% of the member's highest annual salary rate that would be used in the determination of the average salary for retirement annuity purposes if the member retired immediately after withdrawal, for each year of creditable service established under this Section.

If the member receives a lump sum payment for accumulated vacation, sick leave, and personal leave upon withdrawal from service, and the net amount of that lump sum payment is at least as great as the amount of the contribution required under this Section, the entire contribution must be paid by the employee by payroll deduction. If there is no such lump sum payment, or if it is less than the contribution required under this Section, the member shall make an initial payment by payroll deduction, equal to the net amount of the lump sum payment for accumulated vacation, sick leave, and personal leave, and have the remaining amount due treated as a reduction from the retirement annuity in 24 equal monthly installments beginning in the month in which the retirement annuity takes effect. The required contribution may be paid as a pre-tax deduction from earnings.

(d) In order to ensure that the efficient operation of State government is not jeopardized by the simultaneous retirement of large numbers of key personnel, the director or other head of a department may, for key employees of that department, extend the December 31, 2002 deadline for terminating employment under this Article established in subdivision (a)(4) of this Section to a date not later than April 30, 2003 by so notifying the System in writing by December 31, 2002.

(e) A person who has received any age enhancement or creditable service under this Section and who reenters contributing service under this Article or Article 14 shall thereby forfeit that age enhancement and creditable service, and become entitled to a refund of the contributions made pursuant to this Section.

(f) The System shall determine the amount of the increase in unfunded accrued liability resulting from the granting of early retirement incentives under this Section and shall report that amount to the Governor and the Pension Laws Commission on or before November 15, 2003. The increase in liability reported under this subsection (f) shall not be included in the calculation of the required State contribution under Section 16-158.

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(g) The System shall determine the amount of the annual State contribution necessary to amortize on a level dollar-payment basis, over a period of 10 years at 8.5% interest, compounded annually, an amount equal to the increase in unfunded accrued liability determined under subsection (f) minus \$1,000,000. The System shall certify the amount of this annual State contribution to the Governor, the State Comptroller, the Bureau of the Budget, and the Pension Laws Commission on or before November 15, 2003.

In addition to the contributions otherwise required under this Article, the State shall appropriate and pay to the System (1) an amount equal to \$1,000,000 in State fiscal year 2004 and (2) in each of State fiscal years 2005 through 2013, an amount equal to the annual State contribution certified by the System under this subsection (g).

(h) The Pension Laws Commission shall determine and report to the General Assembly, on or before January 1, 2004 and annually thereafter through the year 2013, its estimate of (1) the annual amount of payroll savings likely to be realized by the State as a result of the early retirement of persons receiving early retirement incentives under this Section and (2) the net annual savings or cost to the State from the program of early retirement incentives created under this Section.

The System, the Department of Central Management Services, the Bureau of the Budget, and all other departments shall provide to the Commission any assistance that the Commission may request with respect to its reports under this Section. The Commission may require departments to provide it with any information that it deems necessary or useful with respect to its reports under this Section, including without limitation information about (1) the final earnings of former department employees who elected to receive benefits under this Section, (2) the earnings of current department employees holding the positions vacated by persons who elected to receive benefits under this Section, and (3) positions vacated by persons who elected to receive benefits under this Section that have not yet been refilled.

(i) The changes made to this Section by this amendatory Act of the 92nd General Assembly do not apply to persons who retired under this Section on or before May 1, 1992.

~~(a) To be eligible for the benefits provided in this Section, a member must:~~

~~(1) be a member of this System who, on any day during May, 1991, is (i) in active payroll status as a full-time teacher employed by the Department of Rehabilitation Services, the Department of Corrections, the Department of Mental Health and Developmental Disabilities, the Teachers' Retirement System of the State of Illinois, the State Board of Education, or the Illinois Purchased-Care Review Board, or (ii) on layoff status from such a position with a right of re-employment or recall to service, or (iii) on a leave of absence from such a position, but only if the member on leave has not been receiving benefits under Section 16-149 or 16-149.1 for a continuous period of 2 years or more as of the date of application;~~

~~(2) have never previously received a retirement annuity under this Article or Article 14, 15 or 17;~~

~~(3) file with the Board before December 1, 1991, a written application requesting the benefits provided in this Section;~~

~~(4) be eligible no later than January 1, 1992, to receive a retirement annuity under this Article (for which purpose any age enhancement or creditable service received under this Section may be used) and elect to receive the retirement annuity beginning~~

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not earlier than the first day of the month following the month in which this amendatory Act of 1991 takes effect, and not later than January 1, 1992;

(5) have attained age 50 (without the use of any age enhancement received under this Section) by December 31, 1991;

(6) have at least 5 years of creditable service under this System or any of the participating systems under the Retirement Systems Reciprocal Act (without the use of any creditable service received under this Section) by the effective date of the retirement annuity; and

(7) have paid all applicable contributions as required by this Section; however, the date such contributions are received by the System shall not be considered in determining the effective date of retirement.

(b) An eligible person may establish up to 5 years of creditable service under this Article by making the contributions specified in subsection (c). In addition, for each period of creditable service established under this Section a person shall have his or her age at retirement deemed enhanced by an equivalent period.

The creditable service established under this Section may be used for all purposes under this Article and the Retirement Systems Reciprocal Act, except for the computation of final average salary, the determination of salary or compensation under this or any other Article of the Code, or the determination of eligibility for and the computation of benefits under Section 16-133.2 of this Article.

The age enhancement established under this Section may be used for all purposes under this Article (including calculation of a proportionate annuity payable by this System under the Retirement Systems Reciprocal Act), except for purposes of a reversionary annuity under Section 16-136, the retirement annuity under Section 16-133(a)(A), the required distributions under Section 16-142.3, and the determination of eligibility for and the computation of benefits under Section 16-133.2 of this Article. However, age enhancement established under this Section shall not be used in determining benefits payable under other Articles of this Code under the Retirement Systems Reciprocal Act.

(c) For all creditable service established under this Section, a member must pay to the System an employee contribution consisting of 4% of the member's highest annual salary rate used in the determination of the average salary for retirement annuity purposes for each year creditable service has been increased under this Section.

If the member receives a lump sum payment for accumulated vacation, sick leave and personal leave upon withdrawal from service, and the net amount of that lump sum payment is at least as great as the amount of the contribution required under this Section, the entire contribution must be paid by the employee before the retirement annuity may become payable. If there is no such lump sum payment, or if it is less than the contribution required under this Section, the member may either pay the entire contribution before the retirement annuity becomes payable, or may instead make an initial payment before the retirement annuity becomes payable, equal to the net amount of the lump sum payment for accumulated vacation, sick leave and personal leave, and have the remaining amount due deducted from the retirement annuity in 24 equal monthly installments beginning in January of 1992.

(d) An annuitant who has received any age enhancement or creditable service under this Section and who re-enters contributing service under this Article or Article 14, 15 or 17, shall thereby forfeit such age enhancement and creditable service, and upon

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~~re-retirement-the--annuity--shall--be--recomputed.---Upon--forfeiting creditable--service--under--this--subsection, a person shall be entitled to a refund of the contribution paid under this Section.~~
(Source: P.A. 89-21, eff. 7-1-95.)

Section 15. The State Pension Funds Continuing Appropriation Act is amended by adding Section 1.6 as follows:

(40 ILCS 15/1.6 new)

Sec. 1.6. Appropriations for early retirement programs.

(a) There is hereby appropriated from the General Revenue Fund to the State Employees' Retirement System of Illinois, on a continuing annual basis in each of State fiscal years 2004 through 2013, the amount, if any, by which the total available amount of all other appropriations to that retirement system for the payment of State contributions under subsection (g) of Section 14-108.3 of the Illinois Pension Code in that fiscal year is less than the total amount of State contributions required for that fiscal year under that subsection (g).

(b) There is hereby appropriated from the General Revenue Fund to the Teachers' Retirement System of the State of Illinois, on a continuing annual basis in each of State fiscal years 2004 through 2013, the amount, if any, by which the total available amount of all other appropriations to that retirement system for the payment of State contributions under subsection (g) of Section 16-133.3 of the Illinois Pension Code in that fiscal year is less than the total amount of State contributions required for that fiscal year under that subsection (g).

Section 99. Effective date. This Act takes effect upon becoming law."

Senator Bomke moved the adoption of the foregoing amendment.

The motion prevailed and the amendment was adopted and ordered printed.

And House Bill No. 2671, as amended, was returned to the order of third reading.

On motion of Senator Luechtefeld, House Bill No. 5375 was recalled from the order of third reading to the order of second reading.

Senator Luechtefeld offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 5375, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Sections 8-11-1.1, 8-11-1.2, 8-11-1.3, 8-11-1.4, and 8-11-1.5 as follows:

(65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

Sec. 8-11-1.1. Non-home rule municipalities; imposition of taxes.

(a) The corporate authorities of a non-home rule municipality may, upon approval of the electors of the municipality pursuant to subsection (b) of this Section, impose by ordinance or resolution the 1/2 of 1% tax authorized in Sections 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

(b) The corporate authorities of the municipality may by ordinance or resolution call for the submission to the electors of the municipality the question of whether the municipality shall impose such tax. Such question shall be certified by the municipal clerk to the election authority in accordance with Section 28-5 of

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the Election Code and shall be in a form in accordance with Section 16-7 of the Election Code.

If a majority of the electors in the municipality voting upon the question vote in the affirmative, such tax shall be imposed.

An ordinance or resolution imposing the 1/2 of 1% tax hereunder or discontinuing the same shall be adopted and a certified copy thereof, together with a certification that the ordinance or resolution received referendum approval in the case of the imposition of such tax, filed with the Department of Revenue, on or before the first day of June, whereupon the Department shall proceed to administer and enforce the additional tax or to discontinue the tax, as the case may be, as of the first day of September next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing. A non-home rule municipality may file a certified copy of an ordinance or resolution, with a certification that the ordinance or resolution received referendum approval in the case of the imposition of the tax, with the Department of Revenue, as required under this Section, only after October 2, 2000. Beginning November 1, 2002, an ordinance or resolution imposing or discontinuing the tax hereunder or effecting a change in the rate thereof shall either (i) be adopted and a certified copy thereof filed with the Department on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing; or (ii) be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing.

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00.)

(65 ILCS 5/8-11-1.2) (from Ch. 24, par. 8-11-1.2)

Sec. 8-11-1.2. Definition. As used in Sections 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act, "public infrastructure" means municipal roads and streets, access roads, bridges, and sidewalks; waste disposal systems; and water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities. For purposes of referenda authorizing the imposition of taxes by the City of DuQuoin under Sections 8-11-1.3, 8-11-1.4, and 8-11-1.5 of this Act that are approved in November, 2002, "public infrastructure" shall also include public schools.

(Source: P.A. 91-51, eff. 6-30-99.)

(65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

Sec. 8-11-1.3. Non-Home Rule Municipal Retailers' Occupation Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon all persons engaged in the business of selling tangible personal property, other than on an item of tangible personal property which is titled and registered by an agency of this State's Government, at retail in the municipality at the rate of 1/2 of 1% for expenditure on public infrastructure as defined in Section 8-11-1.2 if approved by referendum as provided in Section 8-11-1.1,

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of the gross receipts from such sales made in the course of such business. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act shall permit such retailer to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda, arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as fully as if those provisions were set forth herein.

No municipality may impose a tax under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.4 of this Code.

For purposes of imposing the taxes set forth in this Section, the proposition shall be in substantially the following form: "Shall (name of municipality) be authorized to impose a Non-Home Rule Municipal Retailers' Occupation Tax at the rate of (rate of tax) upon all persons engaged in the business of selling tangible personal property at retail in the municipality on gross receipts from the sales made in the course of their business to be used for public infrastructure purposes and shall (name of municipality) be authorized to impose a Non-Home Rule Municipal Service Occupation Tax at the rate of (rate of tax) upon all persons engaged in the business of transferring tangible personal property incident to sales of service in the municipality to be used for public infrastructure purposes?" Votes shall be recorded as Yes or No.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their seller's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to

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the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the non-home rule municipal retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department plus an amount the Department determines is necessary to offset any amounts which were erroneously paid to a different taxing body, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality, and not including any amount which the Department determines is necessary to offset any amounts which were payable to a different taxing body but were erroneously paid to the municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

When certifying the amount of a monthly disbursement to a municipality under this Section, the Department shall increase or decrease such amount by an amount necessary to offset any misallocation of previous disbursements. The offset amount shall be the amount erroneously disbursed within the previous 6 months from the time a misallocation is discovered.

The Department of Revenue shall implement this amendatory Act of the 91st General Assembly so as to collect the tax on and after January 1, 2002.

As used in this Section, "municipal" and "municipality" means a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Retailers' Occupation Tax Act".

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00.)

(65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon all persons engaged, in such municipality, in the business of making sales of service at the rate of 1/2 of 1% for expenditure on public infrastructure as defined in Section 8-11-1.2 if approved by referendum as provided in Section 8-11-1.1, of the

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selling price of all tangible personal property transferred by such servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics. The tax imposed by a municipality pursuant to this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit such registrant to engage in a business which is taxable under any ordinance or resolution enacted pursuant to this Section without registering separately with the Department under such ordinance or resolution or under this Section. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided, and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the taxing municipality), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the taxing municipality), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this municipal tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the taxing municipality), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

No municipality may impose a tax under this Section unless the municipality also imposes a tax at the same rate under Section 8-11-1.3 of this Code. Approval of the referendum under Section 8-11-1.3 of this Act shall be deemed to be approval of the imposition of the tax authorized under this Section.

Persons subject to any tax imposed pursuant to the authority granted in this Section may reimburse themselves for their serviceman's tax liability hereunder by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which servicemen are authorized to collect under the Service Use Tax Act, pursuant to such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the municipal

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retailers' occupation tax fund.

The Department shall forthwith pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named municipalities, the municipalities to be those from which suppliers and servicemen have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each municipality shall be the amount (not including credit memoranda) collected hereunder during the second preceding calendar month by the Department, and not including an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of such municipality. Within 10 days after receipt, by the Comptroller, of the disbursement certification to the municipalities and the General Revenue Fund, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in such certification.

The Department of Revenue shall implement this amendatory Act of the 91st General Assembly so as to collect the tax on and after January 1, 2002.

Nothing in this Section shall be construed to authorize a municipality to impose a tax upon the privilege of engaging in any business which under the constitution of the United States may not be made the subject of taxation by this State.

As used in this Section, "municipal" or "municipality" means or refers to a city, village or incorporated town, including an incorporated town which has superseded a civil township.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Service Occupation Tax Act".

(Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00.)

(65 ILCS 5/8-11-1.5) (from Ch. 24, par. 8-11-1.5)

Sec. 8-11-1.5. Non-Home Rule Municipal Use Tax Act. The corporate authorities of a non-home rule municipality may impose a tax upon the privilege of using, in such municipality, any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of this State's government, at a rate of 1/2 of 1% and based on the selling price of such tangible personal property, as "selling price" is defined in the Use Tax Act, for expenditure on public infrastructure as defined in Section 8-11-1.2, if approved by referendum as provided in Section 8-11-1.1. Such tax shall be collected from persons whose Illinois address for title or registration purposes is given as being in such municipality. Such tax shall be collected by the municipality imposing such tax. A non-home rule municipality may not impose and collect the tax prior to January 1, 2002.

For purposes of imposing the tax set forth in this Section, the proposition shall be in substantially the following form: "Shall (name of municipality) be authorized to impose a Non-Home Rule Municipal Use Tax on tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of this State's government to an address located in (name of municipal), at a rate of (rate of tax) of the selling price of such property, and use such revenue for public infrastructure purposes?"
Votes shall be recorded as Yes or No.

This Section shall be known and may be cited as the "Non-Home Rule Municipal Use Tax Act".

(Source: P.A. 91-649, eff. 1-1-00.)

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Section 99. This Act is effective upon becoming law."

The motion prevailed and the amendment was adopted and ordered printed.

And House Bill No. 5375, as amended, was returned to the order of third reading.

CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator Cronin moved that Senate Joint Resolution No. 75, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

The following amendment was offered in the Committee on Education, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend Senate Joint Resolution 75, on page 1, by replacing lines 2 through 13 with the following:

"WHEREAS, The State Board of Education has filed its report, dated April 30, 2002, with the Senate, the House of Representatives, and the Secretary of State of Illinois as required by Section 2-3.25g of the School Code; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the Waukegan PSD 60 - Lake, WM100-2269, Substitute Certificates is approved for only one year and disapproved for the remaining four years; and be it further

RESOLVED, BY THE SENATE OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that each of the school district waiver requests identified below by school district name and by the identifying number and subject area of the waiver request as summarized in the report filed by the State Board of Education is disapproved:

- (1) Lyons ESD 103 - Cook, WM100-2211, Limitation of Administrative Costs;
- (2) Zion ESD 6 - Lake, WM100-2204, Substitute Certificates;
- (3) Harvard CUSD 50 - McHenry, WM100-2223, Substitute Certificates."

Senator Cronin offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend Senate Joint Resolution 75, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, by inserting between lines 21 and 22 the following:

"(1) Antioch CHSD 117 - Lake, WM100-2184, Assessment - Prairie State Achievement Examination;" and
on page 1, line 22, by replacing "(1)" with "(2)"; and
on page 2, line 1, by replacing "(2)" with "(3)"; and
on page 2, line 3, by replacing "(3)" with "(4)".

And on that motion a call of the roll was had resulting as follows:

Yeas 35; Nays 16; Present None.

The following voted in the affirmative:

Bomke

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Bowles
Cronin
DeLeo
del Valle
Demuzio
Dillard
Dudycz
Halvorson
Hawkinson
Jacobs
Jones, E.
Klemm
Lightford
Link
Madigan
Molaro
Munoz
Obama
O'Daniel
Radogno
Ronen
Roskam
Shadid
Shaw
Silverstein
Smith
Trotter
Viverito
Walsh, L.
Watson
Weaver
Welch
Woolard
Mr. President

The following voted in the negative:

Burzynski
Donahue
Geo-Karis
Hendon
Jones, W.
Lauzen
Luechtefeld
Mahar
Noland
O'Malley
Peterson
Petka
Sieben
Stone
Syverson
Walsh, T.

The motion prevailed.

And the amendment was adopted.

And Senate Joint Resolution No. 75, as amended, was held on the order of Secretary's Desk - Resolutions.

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COMMITTEE MEETING ANNOUNCEMENTS

Senator Mahar, Chairperson of the Committee on Environment and Energy announced that the Environment and Energy Committee will meet Thursday, May 23, 2002 in Room 400, Capitol Building, at 11:30 o'clock a.m.

Senator Parker, Chairperson of the Committee on Transportation announced that the Transportation Committee will meet Thursday, May 23, 2002 in Room A1, Stratton Building, at 11:30 o'clock a.m.

Senator Hawkinson, Chairperson of the Committee on Judiciary announced that the Judiciary Committee will meet Thursday, May 23, 2002 in Room 400, Capitol Building, at 10:30 o'clock a.m.

Senator Donahue announced that there will be a Republican caucus immediately upon adjournment.

Senator Smith announced that there will be a Democrat caucus immediately upon adjournment.

At the hour of 3:50 o'clock p.m., on motion of Senator Shadid, the Senate stood adjourned until Thursday, May 23, 2002 at 1:00 o'clock p.m.

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